REMARKS

In the Office Action the Examiner noted that claims 14-26 are pending in the application, and the Examiner rejected all claims. By this Amendment, claims 14 and 25 have been amended. Support for the claim amendments can be found at least in paragraph [0022] of the specification, and no new matter has been presented. Thus, claims 14-26 remain pending in the application. The Examiner's rejections are traversed below, and reconsideration of all rejected claims is respectfully requested.

Claim Rejections Under 35 USC §102

In item 2 on pages 2-7 of the Office Action the Examiner rejected claims 14-23 and 25 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,378,625, issued to Oom et al. (hereinafter referred to as "Oom"). The Applicants respectfully traverse the Examiner's rejections of these claims.

Claim 14 of the present application, as amended, recites "directly administering physical resources for a data transmission to user equipment by a first device at a first hierarchy within the hierarchical network architecture." Therefore, the first device at the first hierarchy directly administers the physical resources. The Applicants respectfully that Oom does not disclose at least this feature of the present application.

Oom discloses a method of re-homing from a first radio network controller (RNC) to a second RNC when the first RNC becomes overloaded and/or automatic resource sharing between/among RNCs when one RNC becomes overloaded (Abstract). In this method, a managing/controlling entity receives load measuring reports from the RNCs and analyzes them. Therefore, the base stations are at a lower hierarchy than the RNCs, which are at a lower hierarchy than the managing/controlling entities. The RNCs 115 each include mobile connection services (MCS) 215 which control the radio connection to specific user equipment 120. "Specifically, the MCS 215 requests radio resources from the BRH 220 that are needed for a radio connection" (Column 5, Lines 20-26). Thus, the physical resources for data transmission to user equipment in Oom are administered by the RNCs of the higher hierarchy.

This is in direct contrast to "directly administering physical resources for a data transmission to user equipment by a first device at a first hierarchy within the hierarchical network architecture," as recited in claim 14 of the present application. In an embodiment of the present invention, the base stations at the first hierarchy within the network architecture control

the physical resources assigned to them for data transmissions to user equipment. Conversely, the base stations (RBS 110) in Oom do not control their physical resources. The physical resources of the base stations of Oom are controlled by the MCS functionality of an RNC 115 (Column 5, Lines 20-26). Therefore, claim 14 patentably distinguishes over Oom at least because this feature is not disclosed or suggested by Oom.

Further, claim 14 of the present application recites "transmitting load information about a current load situation of the physical resources by the first device to the second device at a second hierarchy higher than the first hierarchy....for controlling a load distribution." The Applicants respectfully submit that this feature is also not disclosed or suggested by Oom.

In Oom, a mobile station (MS), which does not form part of the hierarchical network architecture, transmits reports to the RNC 115, which in turn transmits the reports to the managing controlling entity. Therefore, the base stations, which would be considered as being on the first hierarchy of Oom, do not transmit any message to the RNC, which would be considered at the second hierarchy of Oom. And the managing controlling entity (the radio network manager 125), which would be considered to be at the third (and higher) hierarchy of the system of Oom, performs a re-homing procedure (control of the load distribution). Thus, the base stations, which are in direct communication with the MS, are completely bypassed in the reporting of the load information, and the load distribution is controlled by the third hierarchy managing controlling entity. Therefore, Oom discloses a network in which network devices that belong to higher network hierarchies are always supplied with knowledge of operational relationships, such as load relationships, within the network, without receiving the information from the devices at the first hierarchy. The information originates from the mobile stations, rather than from the device at a first hierarchy as recited in claim 14. Further, as the measurement reports in Oom are transmitted to the managing controlling entity, rather than the second hierarchical device, to control a load distribution, more control signaling between different network nodes and a central network managing node is required, as well as an increase in the time a network node has to wait before it receives any feedback from the managing controlling entity.

Therefore, Oom does not disclose at least the features of claim 14 discussed above. Accordingly, Oom does not disclose every element of the Applicants' claim 14. In order for a reference to anticipate a claim, the reference must teach each and every element of the claim (MPEP §2131). Therefore, since Oom does not disclose the features recited in independent

claim 14, as stated above, it is respectfully submitted that claim 14 patentably distinguishes over Oom, and withdrawal of the §102(b) rejection is earnestly and respectfully solicited.

Claims 15-23 depend from claim 14 and include all of the features of that claim plus additional features which are not disclosed or suggested by Oom. Therefore, it is respectfully requested that claims 15-23 also patentably distinguish over Oom.

Claim 25 of the present application recites a "high level device at a first hierarchy...controlling load distribution" and "at least one low level device at a second hierarchy lower than the first hierarchy, transmitting to said high device, information about a current load situation of the physical resources directly administered by said at least one low level device." As discussed above in regard to claim 14 of the present application, Oom does not disclose or suggest at least these features of claim 25. Therefore, it is respectfully requested that claim 25 also patentably distinguishes over Oom.

Claim Rejections Under 35 USC §103

In item 4 on pages 7-9 of the Office Action the Examiner rejected claims 24 and 26 under 35 U.S.C. §103(a) as being unpatentable over Oom in view of U.S. Patent Application Publication No. 2002/0193118, issued to Jain et al. (hereinafter referred to as "Jain"). The Applicants respectfully traverse the Examiner's rejections of these claims.

As discussed in the previous section of this Amendment, independent claims 1 and 25 patentably distinguish over Oom. Further, as Jain apparently merely discloses controlling a transmission of data packets in a packet data transmission system, Jain does not cure the deficiencies of Oom in relation to claims 1 and 25. Thus, as claims 24 and 26 depend respectively from claims 1 and 25, and include all of the features of those respective claims plus additional features which are not disclosed or suggested in the cited references, it is respectfully submitted that claims 24 and 26 also patentably distinguish over the cited references.

Summary

In accordance with the foregoing, claims 14 and 25 have been amended. No new matter has been presented. Thus, claims 14-26 remain pending and under consideration.

There being no further outstanding objections or rejections, it is respectfully submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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